

CITY ATTORNEY'S OFFICE  
CITY AND COUNTY OF SAN FRANCISCO  
DENNIS J. HERRERA, State Bar #139669  
City Attorney  
JESSE C. SMITH, State Bar #122517  
Chief Assistant City Attorney  
RONALD P. FLYNN, State Bar #184186  
Chief Deputy City Attorney  
YVONNE R. MERÉ, State Bar #173594  
SARA J. EISENBERG, State Bar #269303  
MATTHEW D. GOLDBERG, State Bar #240776  
Deputy City Attorneys  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102-4602  
Telephone: (415) 554-4748  
Facsimile: (415) 554-4715  
E-Mail: matthew.goldberg@sfcityatty.org

OFFICE OF THE COUNTY COUNSEL  
COUNTY OF SANTA CLARA  
JAMES R. WILLIAMS, State Bar #271253  
County Counsel  
GRETA S. HANSEN, State Bar #251471  
Chief Assistant County Counsel  
LAURA TRICE, State Bar #284837  
RAPHAEL N. RAJENDRA, State Bar #255096  
JULIA B. SPIEGEL, State Bar #292469  
H. LUKE EDWARDS, State Bar #313756  
Deputy County Counsels  
70 West Hedding Street  
East Wing, Ninth Floor  
San Jose, CA 95110-1770  
Telephone: (408) 299-5900  
Facsimile: (408) 292-7240  
E-Mail: luke.edwards@cco.sccgov.org

Attorneys for Plaintiff  
CITY AND COUNTY OF SAN FRANCISCO

Attorneys for Plaintiff  
COUNTY OF SANTA CLARA

*\*Additional Counsel Listed on Next Two Pages*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO  
and COUNTY OF SANTA CLARA,  
Plaintiffs,  
vs.  
U.S. CITIZENSHIP AND IMMIGRATION  
SERVICES, *et al.*,  
Defendants.

Case No. 19-cv-04717-PJH  
Case No. 19-cv-04975-PJH  
Case No. 19-cv-04980-PJH

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTIONS FOR  
PRELIMINARY INJUNCTION**

STATE OF CALIFORNIA, *et al.*,  
Plaintiffs,  
vs.  
U.S. DEPARTMENT OF HOMELAND  
SECURITY; *et al.*,  
Defendants.

LA CLINICA DE LA RAZA, *et al.*,  
Plaintiffs,  
vs.  
DONALD J. TRUMP, in his Official Capacity  
as President of the United States, *et al.*,  
Defendants.

XAVIER BECERRA  
Attorney General of California  
MICHAEL L. NEWMAN  
Senior Assistant Attorney General  
CHEROKEE DM MELTON  
Supervising Deputy Attorney General  
JENNIFER C. BONILLA  
LISA CISNEROS  
KATHERINE LEHE  
JULIA HARUMI MASS  
ANITA GARCIA VELASCO  
BRENDA AYON VERDUZCO  
ANNA RICH, State Bar No. 230195  
Deputy Attorneys General  
1515 Clay Street, 20th Floor  
P.O. Box 70550  
Oakland, CA 94612-0550  
Telephone: 510-879-0296  
Facsimile: 510-622-2270  
E-mail: Anna.Rich@doj.ca.gov  
  
Attorneys for Plaintiff  
STATE OF CALIFORNIA

KARL A. RACINE  
Attorney General for the District of Columbia  
KATHLEEN KONOPKA  
Deputy Attorney General  
VALERIE M. NANNERY  
ALACOQUE NEVITT  
Assistant Attorneys General  
441 4th Street, N.W., Suite 630 South  
Washington, DC 20001  
Telephone: (202) 442-9596  
Facsimile: (202) 730-1465  
E-mail: alacoque.nevitt@dc.gov  
  
Attorneys for Plaintiff  
DISTRICT OF COLUMBIA

AARON M. FREY  
Attorney General of Maine  
SUSAN P. HERMAN\*  
Deputy Attorney General 6 State House Station  
Augusta, Maine 04333-0006  
Telephone: (207) 626-8814  
Email: susan.herman@maine.gov  
  
Attorneys for Plaintiff  
STATE OF MAINE

Nicholas Espiritu (SBN 237665)  
NATIONAL IMMIGRATION LAW CENTER  
3450 Wilshire Boulevard, #108-62  
Los Angeles, CA 90010  
Telephone: (213) 639-3900  
Facsimile: (213) 639-3911  
E-mail: espritu@nilc.org

Antionette Dozier (SBN 244437)  
WESTERN CENTER ON LAW & POVERTY  
3701 Wilshire Boulevard, Suite 208  
Los Angeles, CA 90010  
Telephone: (213) 487-7211  
Facsimile: (213) 487-0242  
E-mail: adozier@wclp.org

Martha Jane Perkins (SBN 104784)  
NATIONAL HEALTH LAW PROGRAM  
200 N. Greensboro Street, Ste. D-13  
Carrboro, NC 27510  
Telephone: (919) 968-6308  
Facsimile: (919) 968-8855  
E-mail: perkins@healthlaw.org

Laboni Hoq (SBN 224140)  
ASIAN AMERICANS ADVANCING JUSTICE  
– LOS ANGELES  
1145 Wilshire Blvd., 2nd Floor  
Los Angeles, CA 90017  
Telephone: (213) 977-7500  
Facsimile: (213) 977-7500  
E-mail: lhoq@advancingjustice-la.org

Attorneys for Plaintiffs  
LA CLÍNICA DE LA RAZA; CALIFORNIA  
PRIMARY CARE ASSOCIATION;  
MATERNAL AND CHILD HEALTH  
ACCESS; FARMWORKER JUSTICE;  
COUNCIL ON AMERICAN ISLAMIC  
RELATIONS-CALIFORNIA; AFRICAN  
COMMUNITIES TOGETHER; LEGAL AID  
SOCIETY OF SAN MATEO COUNTY;  
CENTRAL AMERICAN RESOURCE  
CENTER, and KOREAN RESOURCE  
CENTER

1 JOSH SHAPIRO  
Attorney General for the Commonwealth of  
2 Pennsylvania  
MICHAEL J. FISCHER  
3 Chief Deputy Attorney General  
AIMEE D. THOMSON\*  
4 Deputy Attorney General  
1600 Arch St., Suite 300  
5 Philadelphia, PA 19103  
Telephone: (267) 940-6696  
6 Email: athomson@attorneygeneral.gov

7 Attorneys for Plaintiff  
COMMONWEALTH OF PENNSYLVANIA

8  
ELLEN ROSENBLUM  
9 Attorney General of Oregon  
NICOLE DEFEVER  
10 MICHAEL KRON  
Assistant Attorney General  
11 Oregon Department of Justice  
100 SW Market Street  
12 Telephone: (971) 673-1880  
Fax: (971) 673-5000  
13 Nicole.Defever@doj.state.or.us  
Michael.C.Kron@doj.state.or.us

14  
15 Attorneys for Plaintiff  
STATE OF OREGON  
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1 On August 28, 2019, the City and County of San Francisco and the County of Santa Clara  
2 (collectively, the “Counties”) filed a Motion for Preliminary Injunction to enjoin Defendants from  
3 implementing or enforcing the Final Rule of the Department of Homeland Security on “Inadmissibility  
4 on Public Charge Grounds,” 84 Fed. Reg. 41292 (“Final Rule”).

5 On August 26, 2019, the State of California, the District of Columbia, the State of Maine, the  
6 Commonwealth of Pennsylvania, and the State of Oregon (collectively, the “State Plaintiffs”) filed a  
7 Motion for Preliminary Injunction to enjoin Defendants from implementing or enforcing the Final  
8 Rule.

9 On September 3, 2019, La Clínica de La Raza, African Communities Together, California  
10 Primary Care Association, Central American Resource Center, Farmworker Justice, Council on  
11 American-Islamic Relations-California, Korean Resource Center, Maternal and Child Health Access,  
12 Legal Aid Society of San Mateo County, and Asian Health Services (together, the “Organizational  
13 Plaintiffs” and together with the Counties and State Plaintiffs, the “Plaintiffs”) filed a Motion for  
14 Preliminary Injunction to enjoin Defendants from implementing or enforcing the Final Rule.

15 A hearing on the Counties’ motion, the State Plaintiffs’ motion, and the Organizational  
16 Plaintiffs’ motion (together, the “Motions”) was held on Wednesday, October 2, 2019 at 9 a.m.

17 The Court, having considered the Motions and the documents filed therewith, all of the papers  
18 on file in the actions, and the evidence and arguments presented at the hearing, hereby GRANTS the  
19 Plaintiffs’ Motions. The Court finds that each of the necessary elements for issuing a preliminary  
20 injunction are met: the Plaintiffs are likely to prevail on the merits of their claims; absent a preliminary  
21 injunction, the Plaintiffs would be likely to suffer irreparable injury; the balance of equities favors the  
22 Plaintiffs; and the requested relief is in the public interest. In particular, the Plaintiffs are likely to  
23 prevail on the merits of their claims that (1) the Final Rule is contrary to law and thus violates the  
24 Administrative Procedures Act (“APA”), 5 U.S.C. § 706(2)(A), and (2) the Final Rule is arbitrary,  
25 capricious, and an abuse of discretion and thus violates the APA, 5 U.S.C. § 706(2)(A).

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**PRELIMINARY INJUNCTION**

Now, therefore, it is hereby ORDERED that:

DEFENDANTS Kevin McAleenan, in his official capacity as Acting Secretary of Homeland Security; the U.S. Department of Homeland Security; Kenneth T. Cuccinelli, in his official capacity as Acting Director of U.S. Citizenship and Immigration Services; U.S. Citizenship and Immigration Services; and their officers, agents, servants, employees, and attorneys, and any other persons or entities acting in concert or participation with them, ARE HEREBY RESTRAINED AND ENJOINED from committing, or performing, directly or indirectly, any and all of the following acts:

1. Applying the Final Rule, in whole or in part, to a person whose Residence or Domicile is in one of the Covered Jurisdictions at the time of that person's Application;
2. Applying the Final Rule, in whole or in part, to a person whose Residence or Domicile is in one of the Covered Jurisdictions at the time of adjudication of that person's Application;
3. Applying the Final Rule, in whole or in part, to a person who at the time of Application, or adjudication of such Application, is part of a household (as defined in the Final Rule's 8 C.F.R. § 212.21(d)) that includes a person whose Residence or Domicile is in one of the Covered Jurisdictions;
4. Considering a person's application for, certification for, or receipt of a Newly Enumerated Benefit administered, funded, or provided, in whole or in part, in or by one of the Covered Jurisdictions as part of an assessment of whether that person or a member of their household (as defined in the Final Rule's 8 C.F.R. § 212.21(d)) "is likely at any time to become a public charge" within the meaning of 8 U.S.C. § 1182(a)(4); and
5. Communicating to members of the public (including through Defendants' websites, forms, instruction sheets, guidance documents, fact sheets, press releases, and other formal and informal documents) that the Final Rule has been implemented or applies to persons who Reside or are Domiciled in the Covered Jurisdictions.
6. For purposes of this Order, the following terms shall be defined as described below:
  - a. "Final Rule" means the Final Rule of the Department of Homeland Security on "Inadmissibility on Public Charge Grounds," 84 Fed. Reg. 41292 (Aug. 14, 2019).

- 1           b.     “Application” refers to all applications that require a public charge  
2                 determination under the Final Rule.
- 3           c.     “Covered Jurisdictions” means the following jurisdictions:
- 4                 i.     City and County of San Francisco (Plaintiff in Case No. 19-cv-04717);  
5                 ii.    County of Santa Clara (Plaintiff in Case No. 19-cv-04717);  
6                 iii.   State of California (Plaintiff in Case No. 19-cv-04975 and the location  
7                       of the following Plaintiffs in Case No. 19-cv-04980: California Primary  
8                       Care Association (Castellano-García Decl. ¶ 3); Central American  
9                       Resource Center (Sharp Decl. ¶ 3); La Clínica de La Raza (García Decl.  
10                      ¶ 4); Council on American-Islamic Relations-California (Ayloush Decl.  
11                      ¶ 3); Korean Resource Center (Seon Decl. ¶ 3); Maternal and Child  
12                      Health Access (Kersey Decl. ¶ 2); and Legal Aid Society of San Mateo  
13                      (Nakamura Decl. ¶ 3));
- 14                 iv.   District of Columbia (Plaintiff in Case No. 19-cv-04975 and the location  
15                      of the following Plaintiffs in Case No. 19-cv-04980: African  
16                      Communities Together (Kassa Decl. ¶ 3) and Farmworker Justice  
17                      (Goldstein Decl. ¶ 3));
- 18                 v.     State of Maine (Plaintiff in Case No. 19-cv-04975);  
19                 vi.    Commonwealth of Pennsylvania (Plaintiff in Case No. 19-cv-04975);  
20                 vii.   State of Oregon (Plaintiff in Case No. 19-cv-04975); and  
21                 viii.   State of New York (the location of the following plaintiff in Case No.  
22                        19-cv-04980: African Communities Together (Kassa Decl. ¶ 3)).
- 23           d.     “Newly Enumerated Benefit” means the following:
- 24                 i.     Supplemental Nutrition Assistance Program (SNAP), 7 U.S.C. §§ 2011-  
25                       2036c;
- 26                 ii.    Section 8 Housing Assistance under the Housing Choice Voucher  
27                       Program, as administered by HUD under 42 U.S.C. § 1437f;
- 28

- 1                   iii.     Section 8 Project-Based Rental Assistance (including Moderate  
2                                Rehabilitation) under Section 8 of the U.S. Housing Act of 1937 (42  
3                                U.S.C. § 1437f);
- 4                   iv.     Medicaid under 42 U.S.C. § 1396 et seq. (excluding Medicaid used to  
5                                support a person’s institutionalization for long-term care—e.g., in a  
6                                nursing home or mental health institution); and
- 7                   v.     Public Housing under section 9 of the U.S. Housing Act of 1937.
- 8                e.     “Residence” means the location where a person lives (and, with respect to a  
9                                lawful permanent resident who leaves the United States, the person’s United  
10                              States residence at the time of their most recent departure).
- 11               f.     “Domicile” means the location of a person’s fixed habitation or abode where the  
12                              person intends to remain permanently or indefinitely (and, with respect to a  
13                              lawful permanent resident who leaves the United States, the person’s United  
14                              States domicile at the time of their most recent departure).

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16 IT IS SO ORDERED

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18 Dated: \_\_\_\_\_

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HON. PHYLLIS J. HAMILTON  
United States Chief District Judge